

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing  
5 Section 5-102 as follows:

6 (625 ILCS 5/5-102) (from Ch. 95 1/2, par. 5-102)

7 Sec. 5-102. Used vehicle dealers must be licensed.

8 (a) No person, other than a licensed new vehicle dealer,  
9 shall engage in the business of selling or dealing in, on  
10 consignment or otherwise, 5 or more used vehicles of any make  
11 during the year (except house trailers as authorized by  
12 paragraph (j) of this Section and rebuilt salvage vehicles sold  
13 by their rebuilders to persons licensed under this Chapter), or  
14 act as an intermediary, agent or broker for any licensed dealer  
15 or vehicle purchaser (other than as a salesperson) or represent  
16 or advertise that he is so engaged or intends to so engage in  
17 such business unless licensed to do so by the Secretary of  
18 State under the provisions of this Section.

19 (b) An application for a used vehicle dealer's license  
20 shall be filed with the Secretary of State, duly verified by  
21 oath, in such form as the Secretary of State may by rule or  
22 regulation prescribe and shall contain:

23 1. The name and type of business organization  
24 established and additional places of business, if any, in  
25 this State.

26 2. If the applicant is a corporation, a list of its  
27 officers, directors, and shareholders having a ten percent  
28 or greater ownership interest in the corporation, setting  
29 forth the residence address of each; if the applicant is a  
30 sole proprietorship, a partnership, an unincorporated  
31 association, a trust, or any similar form of business  
32 organization, the names and residence address of the

1 proprietor or of each partner, member, officer, director,  
2 trustee or manager.

3 3. A statement that the applicant has been approved for  
4 registration under the Retailers' Occupation Tax Act by the  
5 Department of Revenue. However, this requirement does not  
6 apply to a dealer who is already licensed hereunder with  
7 the Secretary of State, and who is merely applying for a  
8 renewal of his license. As evidence of this fact, the  
9 application shall be accompanied by a certification from  
10 the Department of Revenue showing that the Department has  
11 approved the applicant for registration under the  
12 Retailers' Occupation Tax Act.

13 4. A statement that the applicant has complied with the  
14 appropriate liability insurance requirement. A Certificate  
15 of Insurance in a solvent company authorized to do business  
16 in the State of Illinois shall be included with each  
17 application covering each location at which he proposes to  
18 act as a used vehicle dealer. The policy must provide  
19 liability coverage in the minimum amounts of \$100,000 for  
20 bodily injury to, or death of, any person, \$300,000 for  
21 bodily injury to, or death of, two or more persons in any  
22 one accident, and \$50,000 for damage to property. Such  
23 policy shall expire not sooner than December 31 of the year  
24 for which the license was issued or renewed. The expiration  
25 of the insurance policy shall not terminate the liability  
26 under the policy arising during the period for which the  
27 policy was filed. Trailer and mobile home dealers are  
28 exempt from this requirement.

29 If the permitted user has a liability insurance policy  
30 that provides automobile liability insurance coverage of  
31 at least \$100,000 for bodily injury to or the death of any  
32 person, \$300,000 for bodily injury to or the death of any 2  
33 or more persons in any one accident, and \$50,000 for damage  
34 to property, then the permitted user's insurer shall be the  
35 primary insurer and the dealer's insurer shall be the  
36 secondary insurer. If the permitted user does not have a

1 liability insurance policy that provides automobile  
2 liability insurance coverage of at least \$100,000 for  
3 bodily injury to or the death of any person, \$300,000 for  
4 bodily injury to or the death of any 2 or more persons in  
5 any one accident, and \$50,000 for damage to property, or  
6 does not have any insurance at all, then the dealer's  
7 insurer shall be the primary insurer and the permitted  
8 user's insurer shall be the secondary insurer.

9 When a permitted user is "test driving" a used vehicle  
10 dealer's automobile, the used vehicle dealer's insurance  
11 shall be primary and the permitted user's insurance shall  
12 be secondary.

13 As used in this paragraph 4, a "permitted user" is a  
14 person who, with the permission of the used vehicle dealer  
15 or an employee of the used vehicle dealer, drives a vehicle  
16 owned and held for sale or lease by the used vehicle dealer  
17 which the person is considering to purchase or lease, in  
18 order to evaluate the performance, reliability, or  
19 condition of the vehicle. The term "permitted user" also  
20 includes a person who, with the permission of the used  
21 vehicle dealer, drives a vehicle owned or held for sale or  
22 lease by the used vehicle dealer for loaner purposes while  
23 the user's vehicle is being repaired or evaluated.

24 As used in this paragraph 4, "test driving" occurs when  
25 a permitted user who, with the permission of the used  
26 vehicle dealer or an employee of the used vehicle dealer,  
27 drives a vehicle owned and held for sale or lease by a used  
28 vehicle dealer that the person is considering to purchase  
29 or lease, in order to evaluate the performance,  
30 reliability, or condition of the vehicle.

31 As used in this paragraph 4, "loaner purposes" means  
32 when a person who, with the permission of the used vehicle  
33 dealer, drives a vehicle owned or held for sale or lease by  
34 the used vehicle dealer while the user's vehicle is being  
35 repaired or evaluated.

36 5. An application for a used vehicle dealer's license

1 shall indicate the number of vehicles sold by the dealer  
2 during the previous year, supported by documentation  
3 prescribed by the Secretary, and shall be accompanied by  
4 the following license fees:

5 (A) for dealers that sold 2,500 or more vehicles  
6 the previous year: \$1,500 for the applicant's  
7 established place of business; \$750 for each  
8 additional place of business, if any, to which the  
9 application pertains;

10 (B) for dealers that sold 1,500 to 2,499 vehicles  
11 the previous year: \$1,250 for the applicant's  
12 established place of business; \$625 for each  
13 additional place of business, if any, to which the  
14 application pertains;

15 (C) for dealers that sold 750 to 1,499 vehicles the  
16 previous year: \$1,000 for the applicant's established  
17 place of business, \$500 for each additional place of  
18 business, if any, to which the application pertains;

19 (D) for dealers that sold 500 to 749 vehicles the  
20 previous year: \$750 for the applicant's established  
21 place of business; \$375 for each additional place of  
22 business, if any, to which the application pertains;

23 (E) for dealers that sold 200 to 499 vehicles the  
24 previous year: \$500 for the applicant's established  
25 place of business; \$250 for each additional place of  
26 business, if any, to which the application pertains;

27 (F) for dealers that sold 0 to 199 vehicles the  
28 previous year: \$250 for the applicant's established  
29 place of business; \$125 for each additional place of  
30 business, if any, to which the application pertains;  
31 but if the application is made after June 15 of any  
32 year, the license fee shall be \$125 for the applicant's  
33 established place of business and \$62.50 for each  
34 additional place of business, if any, to which the  
35 application pertains.

36 5.5. License fees for dealers that were not in business

1 the previous year: \$1,000 for the applicant's primary place of  
2 business and \$100 for each additional place of business to  
3 which the application pertains; but if the application is made  
4 after June 15 of any year, the license fee shall be \$500 for  
5 the applicant's primary place of business and \$50 for each  
6 additional place of business, if any, to which the application  
7 pertains.

8 ~~\$1,000 for applicant's established place of business,~~  
9 ~~and \$50 for each additional place of business, if any, to~~  
10 ~~which the application pertains; however, if the~~  
11 ~~application is made after June 15 of any year, the license~~  
12 ~~fee shall be \$500 for applicant's established place of~~  
13 ~~business plus \$25 for each additional place of business, if~~  
14 ~~any, to which the application pertains.~~

15 License fees shall be returnable only in the event that  
16 the application is denied by the Secretary of State. Of the  
17 money received by the Secretary of State as license fees  
18 under this Section for the 2004 licensing year and  
19 thereafter, 95% shall be deposited into the General Revenue  
20 Fund.

21 6. A statement that the applicant's officers,  
22 directors, shareholders having a 10% or greater ownership  
23 interest therein, proprietor, partner, member, officer,  
24 director, trustee, manager or other principals in the  
25 business have not committed in the past 3 years any one  
26 violation as determined in any civil, criminal or  
27 administrative proceedings of any one of the following  
28 Acts:

29 (A) The Anti Theft Laws of the Illinois Vehicle  
30 Code;

31 (B) The Certificate of Title Laws of the Illinois  
32 Vehicle Code;

33 (C) The Offenses against Registration and  
34 Certificates of Title Laws of the Illinois Vehicle  
35 Code;

36 (D) The Dealers, Transporters, Wreckers and

1 Rebuilders Laws of the Illinois Vehicle Code;

2 (E) Section 21-2 of the Illinois Criminal Code of  
3 1961, Criminal Trespass to Vehicles; or

4 (F) The Retailers' Occupation Tax Act.

5 7. A statement that the applicant's officers,  
6 directors, shareholders having a 10% or greater ownership  
7 interest therein, proprietor, partner, member, officer,  
8 director, trustee, manager or other principals in the  
9 business have not committed in any calendar year 3 or more  
10 violations, as determined in any civil or criminal or  
11 administrative proceedings, of any one or more of the  
12 following Acts:

13 (A) The Consumer Finance Act;

14 (B) The Consumer Installment Loan Act;

15 (C) The Retail Installment Sales Act;

16 (D) The Motor Vehicle Retail Installment Sales  
17 Act;

18 (E) The Interest Act;

19 (F) The Illinois Wage Assignment Act;

20 (G) Part 8 of Article XII of the Code of Civil  
21 Procedure; or

22 (H) The Consumer Fraud Act.

23 8. A bond or Certificate of Deposit in the amount of  
24 \$20,000 for each location at which the applicant intends to  
25 act as a used vehicle dealer. The bond shall be for the  
26 term of the license, or its renewal, for which application  
27 is made, and shall expire not sooner than December 31 of  
28 the year for which the license was issued or renewed. The  
29 bond shall run to the People of the State of Illinois, with  
30 surety by a bonding or insurance company authorized to do  
31 business in this State. It shall be conditioned upon the  
32 proper transmittal of all title and registration fees and  
33 taxes (excluding taxes under the Retailers' Occupation Tax  
34 Act) accepted by the applicant as a used vehicle dealer.

35 9. Such other information concerning the business of  
36 the applicant as the Secretary of State may by rule or

1 regulation prescribe.

2 10. A statement that the applicant understands Chapter  
3 1 through Chapter 5 of this Code.

4 (c) Any change which renders no longer accurate any  
5 information contained in any application for a used vehicle  
6 dealer's license shall be amended within 30 days after the  
7 occurrence of each change on such form as the Secretary of  
8 State may prescribe by rule or regulation, accompanied by an  
9 amendatory fee of \$2.

10 (d) Anything in this Chapter to the contrary  
11 notwithstanding, no person shall be licensed as a used vehicle  
12 dealer unless such person maintains an established place of  
13 business as defined in this Chapter.

14 (e) The Secretary of State shall, within a reasonable time  
15 after receipt, examine an application submitted to him under  
16 this Section. Unless the Secretary makes a determination that  
17 the application submitted to him does not conform to this  
18 Section or that grounds exist for a denial of the application  
19 under Section 5-501 of this Chapter, he must grant the  
20 applicant an original used vehicle dealer's license in writing  
21 for his established place of business and a supplemental  
22 license in writing for each additional place of business in  
23 such form as he may prescribe by rule or regulation which shall  
24 include the following:

25 1. The name of the person licensed;

26 2. If a corporation, the name and address of its  
27 officers or if a sole proprietorship, a partnership, an  
28 unincorporated association or any similar form of business  
29 organization, the name and address of the proprietor or of  
30 each partner, member, officer, director, trustee or  
31 manager;

32 3. In case of an original license, the established  
33 place of business of the licensee;

34 4. In the case of a supplemental license, the  
35 established place of business of the licensee and the  
36 additional place of business to which such supplemental

1 license pertains.

2 (f) The appropriate instrument evidencing the license or a  
3 certified copy thereof, provided by the Secretary of State  
4 shall be kept posted, conspicuously, in the established place  
5 of business of the licensee and in each additional place of  
6 business, if any, maintained by such licensee.

7 (g) Except as provided in subsection (h) of this Section,  
8 all used vehicle dealer's licenses granted under this Section  
9 expire by operation of law on December 31 of the calendar year  
10 for which they are granted unless sooner revoked or cancelled  
11 under Section 5-501 of this Chapter.

12 (h) A used vehicle dealer's license may be renewed upon  
13 application and payment of the fee required herein, and  
14 submission of proof of coverage by an approved bond under the  
15 "Retailers' Occupation Tax Act" or proof that applicant is not  
16 subject to such bonding requirements, as in the case of an  
17 original license, but in case an application for the renewal of  
18 an effective license is made during the month of December, the  
19 effective license shall remain in force until the application  
20 for renewal is granted or denied by the Secretary of State.

21 (i) All persons licensed as a used vehicle dealer are  
22 required to furnish each purchaser of a motor vehicle:

23 1. A certificate of title properly assigned to the  
24 purchaser;

25 2. A statement verified under oath that all identifying  
26 numbers on the vehicle agree with those on the certificate  
27 of title;

28 3. A bill of sale properly executed on behalf of such  
29 person;

30 4. A copy of the Uniform Invoice-transaction reporting  
31 return referred to in Section 5-402 of this Chapter;

32 5. In the case of a rebuilt vehicle, a copy of the  
33 Disclosure of Rebuilt Vehicle Status; and

34 6. In the case of a vehicle for which the warranty has  
35 been reinstated, a copy of the warranty.

36 (j) A real estate broker holding a valid certificate of

1 registration issued pursuant to "The Real Estate Brokers and  
2 Salesmen License Act" may engage in the business of selling or  
3 dealing in house trailers not his own without being licensed as  
4 a used vehicle dealer under this Section; however such broker  
5 shall maintain a record of the transaction including the  
6 following:

7 (1) the name and address of the buyer and seller,

8 (2) the date of sale,

9 (3) a description of the mobile home, including the  
10 vehicle identification number, make, model, and year, and

11 (4) the Illinois certificate of title number.

12 The foregoing records shall be available for inspection by  
13 any officer of the Secretary of State's Office at any  
14 reasonable hour.

15 (k) Except at the time of sale or repossession of the  
16 vehicle, no person licensed as a used vehicle dealer may issue  
17 any other person a newly created key to a vehicle unless the  
18 used vehicle dealer makes a copy of the driver's license or  
19 State identification card of the person requesting or obtaining  
20 the newly created key. The used vehicle dealer must retain the  
21 copy for 30 days.

22 A used vehicle dealer who violates this subsection (k) is  
23 guilty of a petty offense. Violation of this subsection (k) is  
24 not cause to suspend, revoke, cancel, or deny renewal of the  
25 used vehicle dealer's license.

26 (Source: P.A. 92-391, eff. 8-16-01; 92-835, eff. 6-1-03; 93-32,  
27 eff. 7-1-03.)

28 Section 99. Effective date. This Act takes effect upon  
29 becoming law.